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Talking Points
HB 4895
October 2015

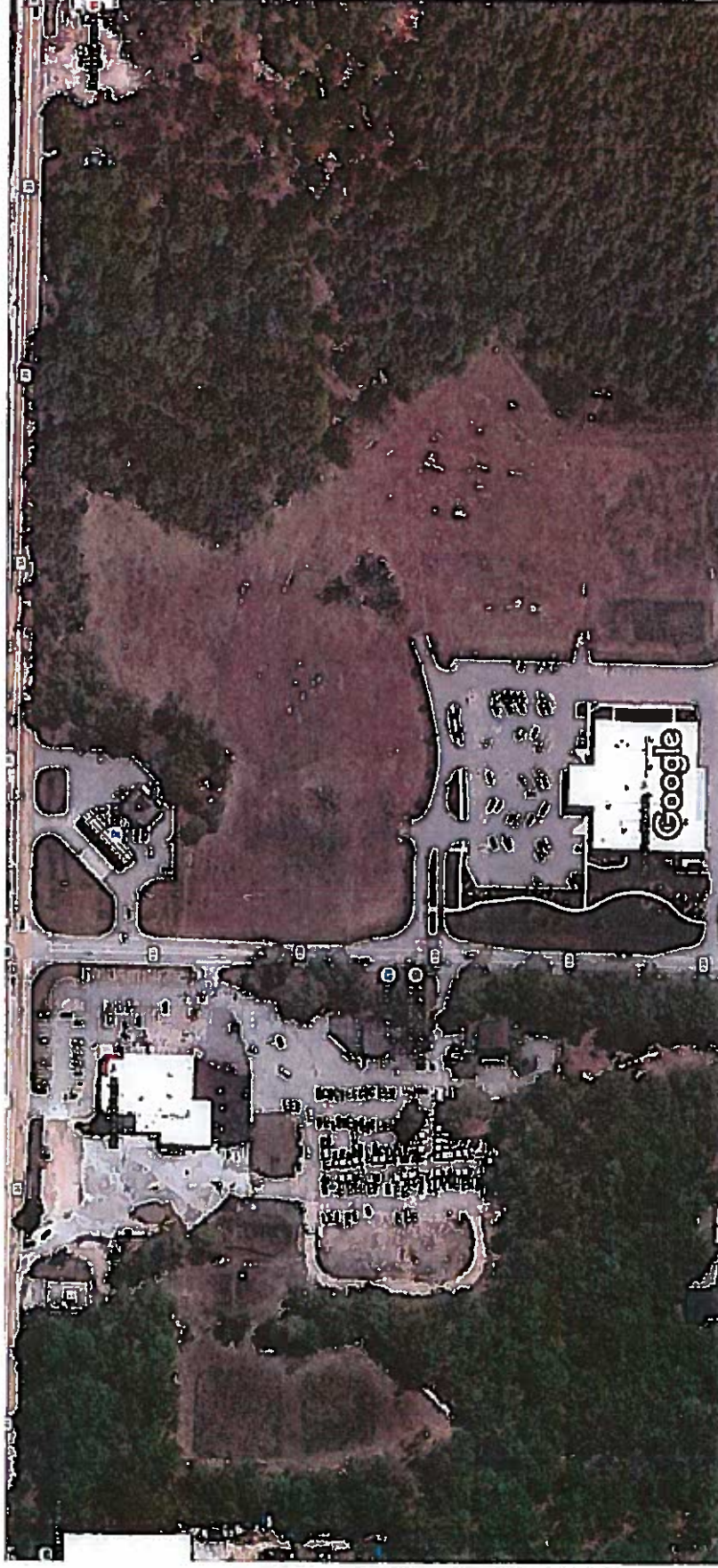
1. HB 4895 prohibits the Michigan Liquor Control Commission (MLCC) from changing its rules to allow motor fuel locations from selling common sales (beer/wine/fuel) at Special Designated Merchants (SDM). Why is this necessary?
2. HB 4895 is flawed in that allows common sales (beer/wine/fuel) at Special Designated Merchants (SDM) in areas where it has previously been prohibited, but does not allow all motor fuel retailers the option, therefore it does not create a level playing field by allowing all to compete fairly.
3. HB 4895 hurts smaller retailers and rewards big box retailers by giving them an unfair advantage. Why would the Legislature favor huge multi-state retail chains at the expense of hundreds of small Michigan based mom & pop retailers? (see examples attached)
4. Currently, the MLCC can issue as many beer and wine (SDM) licenses as it desires, except in certain circumstances. One of those circumstances is if motor fuel pumps are present. Except in very narrow and antiquated situations, common site sales are prohibited.
5. However, there are over 1,000 SDM locations that sell motor fuel today, some of which are in urban areas.
6. Previously, the MLCC at the request of the Legislature, studied the impact of common site sales and found no evidence that it would lead to an increase in drunk driving.
7. Virtually all purchasers of carry out beer and wine currently drive to a retail store to buy the products.

(See page 2)

8. Historical situations and current law has created a patchwork of locations with and without SDM licenses. A 1981 circuit court decision created a legal loophole to allow hundreds of locations to obtain beer and wine licenses and these licenses are grandfathered. The MLCC closed that loophole by rule in 1985. The Legislature then passed bills to allow big box retailers (the "Meijer Exception") to sell in the big store.
9. Currently, depending on what side of the street you are on may decide if you can sell these products. Current law prohibits many motor fuel retailers from receiving an SDM, and many SDM licensees from selling motor fuel. HB 4895 would allow big box retailers the ability to sell at their gas stations, but not other retailers. Why?
10. Many motor fuel retailers (approximately 25%) will not want the added expense and operational responsibility of common sales. However that should be their choice.
11. This story has been picked up in national petroleum news and people across the country are watching this issue to see if Michigan commits to fairness for all motor fuel retailers or only for Big Box stores. How this plays out could effect further investment in Michigan in our industry segment.

Contact: Mark A. Griffin
President MPA/MACS
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Interlochen

Grand Ledge, Michigan (corner of M-100 & M-43)



BP Station
Not allowed under
HB 4895



Meijer Station
Allowed under
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Shell Station
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November 10, 2014

Mr. Andy Deloney
Michigan Liquor Control Commission
525 W. Allegan St.
PO Box 30005
Lansing, MI 48909

Dear Commissioner Deloney,

I write to petition the Commission to undertake rulemaking to amend Rule 1129 (3) that prohibits the Commission from issuing a specially designated merchant license to an applicant who operates motor vehicle fuel pumps at the same location. Section 24.238 of the Administrative Procedures Act allows any person to request an agency to promulgate a rule. I am doing so by this letter.

This issue was addressed in Recommendation #64 in the Liquor Control Advisory Group's recommendations from 2012. The report states MCL 436.1541 should be amended to lower the threshold for the statutory exemption to Rule 1129 for certain situations where an inventory of \$250,000 of grocery type items is maintained and a minimum distance of the cash register from fuel pumps exists.

The underlying ban on SDMs at location selling motor fuel is in Rule 1129. The Commission should fix its own rule and not ask the legislature to create another exception to the rule. This would allow the Commission to establish the conditions it deems necessary to issue licenses, the authority for which has been granted by the legislature.

I have attached a legal opinion by the Legislative Service Bureau to Rep. Mike Shirkey that affirms the prohibition I ask the Commission to amend is in Rule and therefore within the authority of the LCC to amend.

I look forward to your response.

Sincerely,



BUSINESS MEETING OF THE
MICHIGAN LIQUOR CONTROL COMMISSION

Held: Tuesday, March 3, 2015
Lansing District Office
525 W Allegan
Lansing MI 48909

Present: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

Absent: None

Staff: Kerry Krone, Business Manager
Sharon Martin, Director of Licensing Division
Anita Fawcett, Executive Services Division

The meeting was called to order by Chairman Deloney at 9:47 a.m., noting a quorum was present.

- I. **Moved by Commissioner Olshove, supported by Commissioner Quimby, that the minutes of the Commission meeting of February 10, 2015, be approved as written and presented, motion carried by unanimous vote.**

Moved by Commissioner Olshove, supported by Commissioner Quimby, that the minutes of the Closed Session meetings held on January 28, 2015, February 4, 2015 and February 25, 2015, be approved as written and presented, motion carried by unanimous vote.

- II. Chairman Deloney presented licensee requests for special price reductions on spirit products in accordance with the provisions of the Commission's Order of September 11, 2012 regarding special price reductions on spirit products, which was effective on January 1, 2013. He advised there were four (4) different licensees requesting price reductions; that 61 product price reductions could be approved; and that there were zero product price reduction to be denied.

Moved by Commissioner Olshove, supported by Commissioner Quimby, that the 61 special price reductions be approved as indicated on the attached Approval for Price Reduction on Liquor reports, motion carried by unanimous vote.

- III. Chairman Deloney presented a proposed administrative order that would update the existing spirit value added package requirements. He advised to be more in keeping with national trends in the distilled spirit industry and to better serve the retail licensees, vendors of spirits, and consumers in this state; new requirements are necessary. Chairman Deloney advised this administrative order will set those guidelines and rescind the previous administrative orders and bulletins, which will make for a cleaner set of requirements.

Moved by Chairman Deloney, supported by Commissioner Olshove, that Administrative Order No. 2015-02 be approved, as written and presented, motion carried by unanimous vote.

- IV. The Commission has received a request from Mr. Craig Hoppen, from J & H Oil Co., requesting the MLCC initiate the promulgation of a rule to rescind or change certain provisions contained in rule R 436.1129 regulating whether a Specially Designated Merchant license can be issued to an entity that also has motor vehicle fuel pumps at the same location. Chairman Deloney stated that this request was received under MCL 24.238 of the Administrative Procedures Act which reads: "A person may request an agency to promulgate a rule. Within 90 days after filing of a request, the agency shall initiate the processing of a rule or issue a concise written statement of its principal reasons for denial of the request. The denial of a request is not subject to judicial review." Chairman Deloney advised that this request was received via mail on December 9, 2014.

Mr. Bob Cleary, Vice President of Michigan Petroleum Association advised a change to this rule would be beneficial to their members, and Mr. Hoppen also offered comments in support of the request. After discussion on the issue, Chairman Deloney stated that he believes that the Commission should proceed with the requested rulemaking.

*** Motion by Chairman Deloney to grant the request made by Mr. Craig Hoppen, from J & H Oil Co., to initiate the rulemaking process and review rule R 436.1129 in its entirety. Supported by Commissioner Olshove, the motion carried by unanimous vote.**

*** Chairman Deloney stated that the Commission will initiate the rulemaking process as provided for in the Administrative Procedures Act.**

- V. Old Business.

There was no Old Business.

VI. New Business.

There was no New Business.

VII. Public Comments.

There were no Public Comments.

With no further business, moved by Commissioner Olshove, supported by Commissioner Quimby, that the business meeting be adjourned at 10:07 a.m., motion carried by unanimous vote.

Andrew J. Deloney,
Chairman

Anita Fawcett
Executive Services

Oil Express *NEWS ALERT*

Petroleum Marketing News As It Happens

2015-10-27 12:33:59 EDT

Legislation Favors Big-Box Retailers in Sale of Beer, Wine

A Michigan bill would lift a prohibition on beer and wine sales at gas stations -- but only those that are operated by big-box retailers.

The Michigan Petroleum Association and Michigan Association of Convenience Stores said it opposes the legislation because the proposal "hurts the little guys." The association said that the bill is scheduled for a hearing before the Michigan House Regulatory Reform Committee tomorrow.

"All motor fuel retailers should be able to sell beer (and) wine if they choose, not just big-box retailers," the group said in an alert to members. "Modern gas stations/c-stores have changed dramatically and are uniquely suited to sell these products."

A copy of House Bill 4895 shows that in order to sell beer and wine, the licensee would need to be:

- located in a neighborhood shopping center of one or more businesses with 50,000 square feet or more of gross retail space or
- have a minimum of \$250,000 in inventory excluding alcoholic beverages and the alcohol would need to be sold at least five feet from fuel dispensers.

The proposal leaves intact an exception for licensees in small towns and rural counties that meet certain minimum inventory requirements.

The trade association points out that an identical bill was introduced in the Michigan Senate. Senate Bill 345 was referred to the Senate Regulatory Reform Committee, according to the Legislature's website.

--Donna Harris, dharris@opisnet.com

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